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Docket No. ETH-1595

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Murty Vyakarnam, et al.
Serial No. : 09/938,364
Filed : August 8, 2001
Title : FOAM COMPOSITE FOR THE REPAIR OR REGENERATION OF
TISSUE
Art Unit : N.A.
Examiner : N.A.

I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner of Patents, Washington, D.C. 20231 on

May 15, 2002
(Date of Deposit)

William K. Wissing
(Name of applicant, assignee, or Registered Representative)

(Signature)

May 15, 2002
(Date of Signature)

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MAY 23 2002

Honorable Commissioner of Patents
Washington, D.C. 20231

OFFICE OF PETITIONS

Dear Sir:

**APPEAL OF DISMISSAL OF PETITION REGARDING NOTICE OF INCOMPLETE
NON-PROVISIONAL APPLICATION UNDER 37 CFR 1.53(a)**

In response to the Decision on Petition issued on April 19, 2002, dismissing the Petition for Filing Date of August 24, 2001, Applicants respectfully appeal the decision dismissing the Petition for Filing Date of August 24, 2001, and include herein additional information not previously submitted in the original Petition filed on November 14, 2001. Applicants inadvertently submitted a copy of the unstamped post card in the Petition. Applicants submit herewith a copy of the returned post card, stamped by the USPTO and having a date of August 24, 2001. Accordingly, Applicant hereby petitions, through his attorney, that the drawings and the Declaration and Power of Attorney were, in fact, deposited in the U.S. Patent And Trademark Office as part of the application filed on August 24, 2001, Serial No. 09/938,364, and accordingly request that the application be afforded the filing date of August 24, 2001.

The facts and circumstances surrounding applicant's petition are as follows:


1. A copy of the stamped returned post card indicating receipt by the USPTO on August 24, 2001 is attached. This postcard lists 15 sheets of Drawings and the Declaration and Power of Attorney as being included in the application filed on August 24, 2001.
2. This application was filed via express mail on August 24, 2001. This express mailing included the Drawings and the Declaration and Power of attorney. An affidavit from Ms. Karen Hall-Morgan, Patent Paralegal for Johnson and Johnson, was submitted in the Petition filed On November 21, 2001.
3. Additional formal Drawings in the way of bristol boards, including triplicate color photos, and a copy of the executed Declaration and Power of Attorney originally filed with this application, were submitted with the Petition filed On November 14, 2001.

Applicant requests that this Petition be granted and that the copy of the Declaration and Power of Attorney and the Drawings and Photographs filed with the Petition of November 14, 2001 be placed in the file wrapper as part of the application filed on August 24, 2001, Serial No. 08/938,364.

Should this petition be granted, applicants respectfully submit that the fee as set forth in 37 C.F.R. 1.17(i) should be waived. However, in the event of non-payment or improper payment, the Commissioner is authorized to charge any additional fees which may be required in connection with the filing of this communication, or credit any overpayment, to Account No. 10-0750/ETH1595/WKW.

If there are still any unresolved issues, please feel free to contact the undersigned at (732) 524-6201.

Respectfully submitted,



William K. Wissing
Reg. No. 34,757
Attorney for Applicant

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-6201

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D & J PAT. DIV. SECTION

SERIAL NO. _____ DOCKET NO. 1595 BY KWW
APPLICATION OF Vyakarnam, et al. MAILED: 8/24/01
ENTITLED FOAM COMPOSITE FOR THE REPAIR OF

THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT OFFICE ON THE DATE
STAMPED HEREON:

<input type="checkbox"/> AFFIDAVIT	<input type="checkbox"/> DECLARATION	<input type="checkbox"/> EXTENSION OF TIME
<input type="checkbox"/> AMENDMENT		<input type="checkbox"/> NOTICE OF APPEAL
<input type="checkbox"/> ASSIGNMENT FOR RECORDING		<input type="checkbox"/> OATH OR <input checked="" type="checkbox"/> DECLARATION
<input type="checkbox"/> BRIEF		<input type="checkbox"/> POWER OF ATTORNEY
<input checked="" type="checkbox"/> CHARGE TO DEPOSIT ACCOUNT 10-0750		<input type="checkbox"/> PRELIMINARY STATEMENT
<input checked="" type="checkbox"/> DRAWINGS <u>15</u>		<input type="checkbox"/> PRIORITY DOCUMENT
<input type="checkbox"/> ISSUE FEE TRANSMITTAL	<input type="checkbox"/> STATUS INQUIRY	<input checked="" type="checkbox"/> SPECIFICATION <u>106</u> PGS
<input type="checkbox"/> LETTER	<input checked="" type="checkbox"/> CLAIMS	
<input type="checkbox"/> PCT FILING		
<input checked="" type="checkbox"/> IDS - FORM-1449 <i>sup</i>		

FORM 113728 REV. 7/96

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